IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.903 of 2000
Date of decision : 17.5.2011

Mohammad Nazir .....Appellant

Vs.

State of Haryana and another .....Respondents

CORAM : HON'BLE MR. JUSTICE K.KANNAN

Present:- Mr.Vinod Arya, Advocate, for the appellant

None for the respondent

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1. Whether reporters of local papers may be allowed to see the judgment? No

2. To be referred to the reporters or not? No

3. Whether the judgment should be reported in the digest? No

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K.KANNAN, J (ORAL) :-

1. The appeal is for enhancement of claim of compensation for a boy aged 17 years who had a fracture of the leg. He was admitted in the hospital and claimed that he had spent about ₹ 70,000/-to ₹ 80,000/-. The doctor who had treated him, was examined as PW-3 and he had stated that he had performed the surgery and he had also certified the disability at 12%. The Tribunal awarded ₹ 50,000/-for medical expenses in the absence of documentary proof relating to the expenses, ₹ 20,000/-for pain and suffering and ascertained the loss of earning capacity as ₹ 28,800/-.

The loss of earning capacity was determined on the basis that the disability was 12% and the Tribunal took this 12% disability as resulting in 12% loss of earning power and taking the loss to be ₹ 150/-P.M., adopted a multiplier of 16 to hold the loss of earning capacity at ₹ 28,800/-. The overall compensation was determined at ₹ 98,800/-.

2. The disability by a fracture does not cause a loss of earning capacity for the rest of his life unless disability was such that the petitioner's earning skill were also impaired. If the Tribunal did that in view of the evidence given that he earned as a painter and that by virtue of the injury he could not earn. The assessment at ₹ 28,800/-must be seen to be sufficient and there is no scope for any further enhancement. Even the assessment of ₹ 50,000/-as going towards pain and suffering for two fractures in an accident that had taken place in the year 1997 must be seen to be more than appropriate and just. I do not find that there is any scope for enhancement.

3. The award is confirmed and the appeal is dismissed.

(K.KANNAN)
JUDGE

17.5.2011
akm